

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER 95-0579-ST**

**Sales/Use Tax**

**For The Period 1992, 1993 & 1994**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE**

**I. Sales/Use Tax – Tangible Personal Property Used in Production**

**Authority:** IC 6-2.5-5-3, Indiana Department of State Revenue v. Cave Stone, 457 NE2d 520 (Ind 1983)

Taxpayer protested the proposed assessment of sales/use tax on the purchase of a computer and appurtenances.

**I. Penalty**

**Authority:** IC 6-8.1-10-2.1

Taxpayer protested the imposition of a ten percent penalty on the sales/use tax liability.

**STATEMENT OF FACTS**

Taxpayer is a commercial printing house, printing such items as catalogs, brochures, envelopes, forms, etc. A computer is leased to transform information supplied by taxpayer's customers on computer disk into a printing plate. This process has replaced the prior process of taking camera ready copy and making a printing plate. The computer is not used as an office support tool.

This is taxpayer's first Department audit.

### **DISCUSSION**

The audit justifies the proposed assessment based upon the notion that the computer function as a design system a.k.a. computer aided design system (CADD). Design is either art or science, the transformation of concepts, principles or visuals into drawings or plans. Black's Law Dictionary, 5<sup>th</sup> Ed states:

As a term of art, the giving of a visible form to the conceptions of the mind, or invention.

Taking a customer's disk and through a computer creating a printing plate is not CADD.

Here the computer is essential to the achievement of a transformation of the disk "picture" into a printing plate. When tangible personal property is an integral part of the production process it qualifies for the IC 6-2.5-5-3 exemption, see Cave Stone.

### **FINDING**

Taxpayer's protest is sustained as to the lease of the computer and purchases of computer supplies and software.

## **II. Penalty**

### **DISCUSSION**

Taxpayer made no attempt to pay use tax. Taxpayer also purchased items without paying tax that were subject to tax with no colorable exemption.

### **FINDING**

Taxpayer's protest is denied.